

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

In re:

**Arthur T. Flowers, Jr. ,
Debtor.**

Bankruptcy Case. No. 06-31560-WRS

**FIA Card Services, N.A.,
Plaintiff,**

v.

Adversary Proceeding Case No. 07-03009-WRS

**Arthur T. Flowers, Jr.,
Defendant.**

**Counter-Claimant,
Arthur T. Flowers, Jr.**

v.

**Counter-Defendant,
FIA Card Services, N.A.**

TRANSMITTAL OF RECORD ON APPEAL

I, Dianne M. Segrest, do hereby certify that the documents herein comprise the items in the designation of contents related to the Notice of Appeal filed in the above referenced case.

Transmittal Submitted On: October 29, 2007

Contents of Record:

Notice of Appeal: Filed on 10/08/2007: \$255 filing fee paid (rec#2473864)

Designated Items of Appellant: Filed on 10/16/2007 Adv. Proc. Docket #38

Designated Items of Appellee: Filed on 10/24/2007 Adv. Proc. Docket #39

PLEASE NOTE:

REQUEST FOR TRANSCRIPT NOT RECEIVED.

**RE: APPELLANT DESIGNATION - TRANSCRIPT OF TELEPHONE HEARING
HELD ON 8/14/2007.**

**RE: APPELLEE DESIGNATION - TRANSCRIPT OF TELEPHONE HEARING
HELD ON 8/14/2007.**

PLEASE ACKNOWLEDGE RECEIPT OF TRANSMITTAL

/s/ Richard S. Oda, Clerk
United States Bankruptcy Court

/s/Dianne M. Segrest
Deputy Clerk

Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
Phone: 251-439-7400

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,

Debtor.

FIA Card Services, N.A.,

Plaintiff,

v.

Arthur T Flowers, Jr.,

Defendant.

Bankruptcy Case No. 06-31560

ADV. NO. 07-3009

NOTICE OF APPEAL TO THE
UNITED STATES DISTRICT
COURT FOR THE MIDDLE
DISTRICT OF ALABAMA AT
MONTGOMERY

FIA Card Services, N.A., the Plaintiff, appeals under U.S.C. § 158(a) to the United States District Court for the Middle District of Alabama at Montgomery from the Judgment of the United States Bankruptcy Court for the District of Utah entered in this case on September 26, 2007, granting the Defendant's Motion for Summary Judgment and separate Order awarding attorney fees.

The names of all parties to the judgment, order or decree appealed from and the names, addresses and telephone numbers of their respective attorneys are as follows:

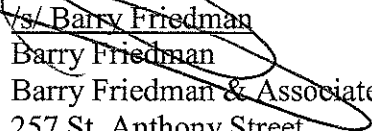
FIA Card Services, N.A.

Arthur T. Flowers, Jr.

Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652

Gail Donaldson
Bond, Botes, Shinn & Donaldson, PC
400 South Union Street, Ste. 230
Montgomery, AL 36104

Dated: October 8, 2007


/s/ Barry Friedman
Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
Phone: 251-439-7400
bky@bafmobile.com

If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellee may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal. Any other party may elect, within the time provided in 28 U.S.C. §158(c) to have the appeal heard by the district court.

If a child support creditor or its representative is the appellant, and if the child support creditor or its representative files the form specified in §304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
AT MONTGOMERY**

In re:

Arthur T Flowers, Jr.,
Debtor.

FIA Card Services, N.A.,
Plaintiff,

v.

Arthur T. Flowers, Jr.,
Defendant.

Bankruptcy Case No. 06-31560

ADV. NO. 07-3009

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2007 I electronically filed the foregoing Notice of Appeal with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Gail Donaldson, Attorney for Defendant

And I hereby certify that I mailed by United States Postal Service the Notice to the following non-ECF participants:

Dated October 8, 2007

/s/ Barry Friedman
Barry Friedman
Barry Friedman & Associates
257 St. Anthony Street
P.O. Box 2394
Mobile, AL 36652
Phone: 251-439-7400
bky@bafmobile.com

APPEAL

**U.S. Bankruptcy Court
MIDDLE DISTRICT OF ALABAMA (Montgomery)
Adversary Proceeding #: 07-03009
Internal Use Only**

Assigned to: William R. Sawyer*Date Filed:* 02/12/07*Related BK Case:* [06-31560 \(Associated Cases\)](#)*Related BK Title:* Arthur T. Flowers*Related BK Chapter:* 7*Demand:* \$4000

*Nature[s]
of Suit:* 62 Dischargeability - 523(a)(2), false
pretenses, false representation,
actual fraud

Plaintiff
-----**FIA Card Services, N.A.**

c/o Barry A Friedman, Esquire

Post Office Box 2394

Mobile, AL 36652

represented by **Barry A. Friedman**

P.O. BOX 2394

MOBILE, AL 36652

251 432-2660

Email: bky@bafmobile.com**LEAD ATTORNEY**

V.

Defendant
-----**Arthur T. Flowers, Jr.**

3345 Habersham Road

Montgomery, AL 36109

SSN: [REDACTED]

represented by **Gail Donaldson**Bond, Botes, Shinn & Donaldson,
P.C.

400 South Union Street, Ste. 230

Montgomery, AL 36104

334-264-3363

Email:

GDonaldson@bondnbotes.com

*LEAD ATTORNEY***Counter-Claimant**

Arthur T. Flowers, Jr.
3345 Habersham Road
Montgomery, AL 36109
SSN: [REDACTED]

represented by

Gail Donaldson
(See above for address)



V.







Counter-Defendant







FIA Card Services, N.A.
c/o Barry A Friedman, Esquire
Post Office Box 2394
Mobile, AL 36652








represented by






Barry A. Friedman
(See above for address)






Filing Date	#	Docket Text
02/12/2007	 <u>1</u>	Adversary case 07-03009. (62 (Dischargeability - 523(a)(2), false pretenses, false representation, actual fraud)): Complaint against Arthur T. Flowers Jr.. Fee Amount \$250. Filed by Barry A. Friedman, FIA Card Services, N.A., Arthur T. Flowers Jr. on behalf of FIA Card Services, N.A.. (Friedman, Barry) (Entered: 02/12/2007)
02/12/2007	2	Receipt of Complaint(07-03009) [cmp,cmp] (250.00) filing fee. Receipt number 2152957, amount \$ 250.00. (U.S. Treasury) (Entered: 02/12/2007)
02/13/2007		Flags: AwCAact21 flag(s) removed.Case was not filed by the trustee. (RLW,) (Entered: 02/13/2007)
02/13/2007	 <u>3</u>	Summons Issued to Plaintiff's Attorney Barry A Freidman to be served on Defendant Arthur T. Flowers Jr. Date Issued 2/13/2007, Answer Due 3/15/2007.






		Execution of Summons to be done by 2/23/2007. (RLW,) (Entered: 02/13/2007)
02/13/2007		New Case Received and Reviewed for Accuracy. (RLW,) (Entered: 02/13/2007)
02/15/2007	 4	BNC Certificate of Service - See Image Attached - (RE: related document(s) 3 Summons Issued). No. of Notices: 1. Service Date 02/15/2007. (Admin.) (Entered: 02/16/2007)
02/16/2007	 5	Summons Service Executed on Arthur T. Flowers Jr. 2/16/2007 . (RE: related document(s) 3 Summons Issued). (Friedman, Barry) (Entered: 02/16/2007)
03/05/2007	 6	Answer to Complaint <i>To Determine Dischargeability of Debt</i> , Counterclaim by Defendant Arthur T. Flowers Jr., Plaintiff FIA Card Services, N.A. against FIA Card Services, N.A. Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 03/05/2007)
03/07/2007	 7	Order Setting Scheduling Conference Entered On 3/7/2007 (RE: related document(s) 1 Complaint, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). Scheduling Conference set for 4/10/2007 at 10:00 AM at Courtroom 4D, Judge Sawyer Presiding, U.S. Bankruptcy Court, Montgomery, AL. (DH,) (Entered: 03/07/2007)
03/07/2007	 8	Request for Production of Documents Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 03/07/2007)
03/07/2007	 9	Discovery Request for <i>Admissions</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 03/07/2007)


03/07/2007	 10	Discovery Request for <i>Interrogatories</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 03/07/2007)
03/09/2007	 11	BNC Certificate of Service - See Image Attached - (RE: related document(s) 7 Scheduling Order,). No. of Notices: 1. Service Date 03/09/2007. (Admin.) (Entered: 03/10/2007)
03/12/2007	 12	Discovery Request for <i>Plaintiff's First Set of Interrogatories and Request for Production and Request for Admissions</i> Filed by Barry A. Friedman on behalf of FIA Card Services, N.A.. (Friedman, Barry) (Entered: 03/12/2007)
04/10/2007	 13	Discovery Response Filed by Barry A. Friedman on behalf of FIA Card Services, N.A.. (Friedman, Barry) (Entered: 04/10/2007)
04/10/2007	 14	Answer to Counterclaim Filed by Barry A. Friedman on behalf of FIA Card Services, N.A.. (Friedman, Barry) (Entered: 04/10/2007)
04/10/2007	 15	Order Setting Trial Date Scheduling Order Entered On 4/10/2007 (RE: related document(s) 1 Complaint, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). Dispositive Pretrial Motions due by 7/12/2007. Pretrial Disclosures due by 8/13/2007. List Disclosing Objections To The Use of Depositions or Admissibility of Exhibits due by 8/31/2007. Joint Pre-Trial Statement due by 8/31/2007. Discovery due by 6/11/2007. Pre-Trial Conference set for 9/11/2007 at 01:30 PM at Telephone Hearing.EACH PARTY DESIRING TO BE HEARD MUST CALL CONFERENCING SERVICES AT LEAST FIVE MINUTES PRIOR TO THE COMMENCEMENT OF COURT. THE NUMBER IS 1-800-347-3350. THE CHAIRPERSON IS WILLIAM LIVINGSTON.Trial Date Deep Set for 9/24/2007. (RLW,) (Entered: 04/10/2007)

		04/10/2007)
04/11/2007	 16	Response to <i>Plaintiff's First Request for Admissions</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 04/11/2007)
04/11/2007	 17	Debtor's Discovery Response to <i>Plaintiff's first Request for Admissions (Amended)</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 04/11/2007)
04/11/2007	 18	Discovery Response <i>Defendant's responses to First Set Of Interrogatories and Requests for Production</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 04/11/2007)
04/12/2007	 19	Affidavit Re: <i>Responses to Plaintiff's First Request For Admissions</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Donaldson, Gail) (Entered: 04/12/2007)
04/12/2007	 20	Affidavit Re: <i>Responses to First Set of Interrogatories and Requests for Production</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr. (RE: related document(s) 18 Discovery Response filed by Counter-Claimant Arthur T. Flowers, Defendant Arthur T. Flowers). (Donaldson, Gail) (Entered: 04/12/2007)
04/12/2007	 21	BNC Certificate of Service - See Image Attached - (RE: related document(s) 15 Scheduling Order, , ,). No. of Notices: 2. Service Date 04/12/2007. (Admin.) (Entered: 04/13/2007)
06/05/2007	 22	Motion For Summary Judgment Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr.. (Attachments: # 1 Exhibit Exhibit A# 2 Exhibit Exhibit B# 3 Exhibit Exhibit C# 4 Exhibit Exhibit D) (Donaldson, Gail) (Entered: 06/05/2007)

06/06/2007		Matter Under Advisement Re: (RE: related document(s) 22 Motion for Summary Judgment). Matter Under Advisement Due by 7/20/2007. (Sawyer, William) (Entered: 06/06/2007)
06/07/2007	 23	Order (Plaintiff FIA Card Services shall file response to Motion for Summary Judgment by 7/5/2007; Defendant Flowers shall reply to response by 7/20/2007; Oral Argument on Motion in writing by 7/20/2007) Entered On 6/7/2007 (RE: related document(s) 22 Motion for Summary Judgment filed by Counter-Claimant Arthur T. Flowers, Defendant Arthur T. Flowers). (YP,) (Entered: 06/07/2007)
06/09/2007	 24	BNC Certificate of Service - See Image Attached - (RE: related document(s) 23 Scheduling Order,). No. of Notices: 2. Service Date 06/09/2007. (Admin.) (Entered: 06/10/2007)
06/19/2007	 25	Response to <i>Defendant's Motion for Summary Judgment on behalf of FIA Card Services, NA</i> Filed by Barry A. Friedman on behalf of FIA Card Services, N.A. (RE: related document(s) 22 Motion for Summary Judgment filed by Counter-Claimant Arthur T. Flowers, Defendant Arthur T. Flowers). (Attachments: # 1 Exhibit # 2 Exhibit # 3 Affidavit # 4 Exhibit) (Friedman, Barry) (Entered: 06/19/2007)
07/18/2007	 26	Motion to Set Hearing <i>for Oral Argument on Motion for Summary Judgment</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr. (RE: related document(s) 23 Scheduling Order,, 22 Motion for Summary Judgment filed by Counter-Claimant Arthur T. Flowers, Defendant Arthur T. Flowers). (Donaldson, Gail) (Entered: 07/18/2007)
07/23/2007	 27	Notice of Telephone Hearing Set (RE: related document(s) 22 Motion for Summary Judgment). Hearing scheduled for 8/14/2007 at 09:00 AM at

		Telephone Hearing. (JPC,) (Entered: 07/23/2007)
07/25/2007	 28	BNC Certificate of Service - Hearing - (RE: related document(s) 27 Telephone Hearing). No. of Notices: 1. Service Date 07/25/2007. (Admin.) (Entered: 07/26/2007)
07/30/2007		Matter Under Advisement Re: (RE: related document(s) Set Matter Under Advisement Deadline). Matter Under Advisement Due by 8/14/2007. (Sawyer, William) (Entered: 07/30/2007)
08/14/2007		Matter Under Advisement Re: (RE: related document(s) Set Matter Under Advisement Deadline). Matter Under Advisement Due by 8/24/2007. (Sawyer, William) (Entered: 08/14/2007)
08/20/2007	 29	Order to Continue Trial Entered On 8/20/2007 (RE: related document(s) 22 Motion for Summary Judgment filed by Counter-Claimant Arthur T. Flowers, Defendant Arthur T. Flowers, 15 Scheduling Order,,). (RLW,) (Entered: 08/20/2007)
09/26/2007	 30	MEMORANDUM DECISION/OPINION - Authored by Judge William Sawyer. Entered On 9/26/2007. (Pugh, Rebekah) (Entered: 09/26/2007)
09/26/2007	 31	Order Granting Motion For Summary Judgment (Related Doc # 22) Entered On 9/26/2007. (Pugh, Rebekah) (Entered: 09/26/2007)
09/26/2007	 32	Order on Attorneys' Fees on Entered On 9/26/2007. (Pugh, Rebekah) (Entered: 09/26/2007)
09/26/2007		Matter Under Advisement Re: (RE: related document(s) Set Matter Under Advisement Deadline). Matter Under Advisement Due by 10/26/2007. (Sawyer, William) (Entered: 09/26/2007)

10/08/2007	 33	Notice of Appeal . Fee Amount \$255. Filed by Barry A. Friedman on behalf of FIA Card Services, N.A. (RE: related document(s) 30 Opinion, 31 Order on Motion For Summary Judgment, 32 Order). Appellant Designation due by 10/18/2007. Transmission of Designation Due by 10/29/2007. (Friedman, Barry) (Entered: 10/08/2007)
10/08/2007	34	Receipt of Notice of Appeal(07-03009) [appeal,ntcapl] (255.00) filing fee. Receipt number 2473864, amount \$ 255.00. (U.S. Treasury) (Entered: 10/08/2007)
10/08/2007	 35	Exhibit <i>Statement of Election to Appeal to the United States District Court for the Middle District of Alabama at Montgomery</i> Filed by Barry A. Friedman on behalf of FIA Card Services, N.A. (RE: related document(s) 33 Notice of Appeal, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). (Friedman, Barry) (Entered: 10/08/2007)
10/09/2007	 36	Notice Service of Notice of Appeal. Civil Action Number: Filed by (RE: related document(s) 33 Notice of Appeal, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A., 35 Exhibit, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). (Attachments: # 1 Instructions for Appellant)(YP,) (Entered: 10/09/2007)
10/09/2007		Motion terminated in DE 27 .Order entered in DE 31 (RE: related document(s) 27 Telephone Hearing). (RLW,) (Entered: 10/09/2007)
10/10/2007	 37	Affidavit Re: <i>Attorneys fees</i> Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr. (RE: related document(s) 32 Order). (Donaldson, Gail) (Entered: 10/10/2007)
10/16/2007	 38	Appellant Designation of Contents For Inclusion in Record and Issues On Appeal Filed by Barry A.

		Friedman on behalf of FIA Card Services, N.A. (RE: related document(s) 33 Notice of Appeal, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). Appellee designation due by 10/26/2007. (Friedman, Barry) (Entered: 10/16/2007)
10/24/2007	 39	Appellee Designation of Contents for Inclusion in Record and Issues On Appeal Filed by Gail Donaldson on behalf of Arthur T. Flowers Jr. (RE: related document(s) 33 Notice of Appeal, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A., 38 Appellant Designation and Issues on Appeal, filed by Counter-Defendant FIA Card Services, N.A., Plaintiff FIA Card Services, N.A.). (Donaldson, Gail) (Entered: 10/24/2007)